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January 11, 2010

**BY HAND DELIVERY**

Clerk of the Court  
Attn: Lynn  
U.S. District Court for the  
Western District of Wisconsin  
120 North Henry Street, Room 320  
Madison, WI 53701

RE: DMCA Subpoena

Dear Lynn:

We are writing on behalf of Ventura Content AVV (“Ventura”) to obtain a subpoena issued by the Clerk of this Court pursuant to 17 U.S.C. § 512(h). As explained below, we are providing the three items required under The Digital Millennium Copyright Act (“DMCA”) together with the \$39 filing fee.

Ventura is the owner of copyrights in a significant number of video works (the “Works”). Ventura actively seeks to protect its rights against individuals using the Internet to infringe its copyrights. We have uncovered a large-scale copyright infringer operating a website, [www.tube8.com](http://www.tube8.com), at the IP address 208.88.224.91 at 4:00 a.m. (EST), November 19, 2009 (the “infringing website.”) The infringing website hosts and distributes a number of video files corresponding to Ventura’s copyrighted Works. Collectively, works owned by Ventura have been illegally accessed millions of times in violation of longstanding principles of direct and secondary liability under the copyright laws. *See Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.*, 545 U.S. 913 (2005); *In re Aimster Copyright Litig.*, 334 F.2d 643 (7th Cir. 2003); *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004 (9th Cir. 2001). Publicly available information indicates that the website is being hosted by WZ Communications, Inc., an internet service provider (ISP) with a principal place of business in Madison, Wisconsin.

Ventura can learn the identities of those behind this infringing website only by obtaining such information from the infringers’ ISP. The Digital Millennium Copyright Act of 1998 (“DMCA”) provides a method for expeditiously obtaining such information from an ISP.

Pursuant to 17 U.S.C. §512(h), a copyright owner or its agent may obtain a subpoena (“DMCA Subpoena”) from the Clerk of any United States District Court for the purpose of seeking the identity of an alleged copyright infringer. Section 512(h)(4) provides that “the clerk shall expeditiously issue and sign the proposed subpoena” upon presentation of three documents

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in proper form: (i) a copy of a DMCA notice of copyright infringement, §512(h)(2)(A); (ii) a proposed subpoena, §512(h)(2)(B); and (iii) a sworn declaration meeting the requirements of §512(h)(2)(C).

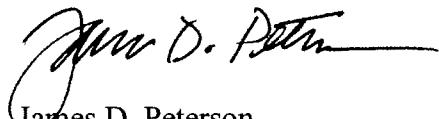
On behalf of Ventura, we are seeking to obtain a DMCA Subpoena, issued by the Clerk of this Court, to serve on WZ Communications, Inc. to learn the identity of the individuals behind the infringing website. With this letter, we are providing a DMCA notification, a proposed subpoena, and a declaration satisfying the requirements of the DMCA.

As required by the DMCA, the notification specifies a representative list of the copyrighted works that are the subject of infringing activity on the ISP's network, identifies the allegedly infringing material to be removed, and provides the ISP with information sufficient to locate the material. The declaration attests, on penalty of perjury, that the purpose of the subpoena is to obtain the identity of an alleged copyright infringer and that information obtained in response to the subpoena will be used only to protect rights under the Copyright Act.

Because of the irreparable harm to Ventura by ongoing copyright infringement and the DMCA's command that DMCA subpoenas be issued and complied with "expeditiously," we request that the Clerk's office issue this subpoena as soon as possible. If you have any questions, please do not hesitate to call me at (608) 284-2618.

Very truly yours,

GODFREY & KAHN, S.C.



James D. Peterson

JDP:saw  
Enclosure

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